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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,945	09/05/2003	Alan D. Eskuri	1001.1685101	9009
28075	7590	05/10/2007		
CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			EXAMINER EVANS, GEOFFREY S	
			ART UNIT 1725	PAPER NUMBER
			MAIL DATE 05/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/656,945	Applicant(s) ESKURI ET AL.	
	Examiner Geoffrey S. Evans	Art Unit 1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-23 and 25-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The formal drawings of 9 September 2003 are acceptable.
2. The entry of the amendment to the specification of 15 February 2007 is approved.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
5. Claims 1-3,5-23,25-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shireman et al. in U.S. Patent Application Publication No. 2004/0167442 A1 in view of Omori in Japan Patent No. 58-90,389. Shireman et al. discloses making a medical device by providing an elongate structure (distal section 16) defining a surface, providing a structural member (helical coil, element 80) that is attached at a attachment point (element 83) by any suitable attachment technique,

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soldering, brazing, welding, adhesive bonding, crimping, or the like (see paragraph 89). Omori teaches the attachment technique of only melting the workpiece with the lower melting point temperature and flowing the molten material to create a mechanical bond between the workpieces. It would have been obvious to adapt Shireman et al. in view of Omori to provide this as an art recognized equivalent method of attaching workpieces together.

6. The Shireman et al. reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the Shireman et al. reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

7. Claims 1-3,5-23,25-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safarevich in U.S. Patent No. 6,061,595 in view of Omori in Japan Patent No. 58-90,389. Safarevich discloses a method of making a medical device by laser welding an elongated shaft (element 48) to a helical coil (element 36) and then cooling but Safarevich uses a laser beam to create fusion bonds by melting both workpieces. Omori teaches only melting the workpiece with the lower melting point temperature and flowing the molten material to create a mechanical bond between the workpieces. It would have been obvious to adapt Safarevich in view of Omori to provide this to create mechanical bond without having to expend the necessary energy to melt

the workpiece (connector 52) with the higher melting point or larger metal mass, thereby making the bonding process more energy efficient.


8. Applicant's arguments filed 15 February 2007 have been fully considered but they are not persuasive. Applicant's argument regarding the rejection of the claims (by Safarevich in U.S. Patent No. 6,061,595 in view of Omori in Japan Patent No. 58-90,389) that the modification would substantially change the final product is not persuasive and has provided no evidence to support this conclusion that the final product would be substantially different since both final products would be useable as medical devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey S. Evans whose telephone number is (571)-272-1174. The examiner can normally be reached on Mon-Fri 6:30AM to 4:00 PM, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on (571)-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Geoffrey S Evans  
Primary Examiner  
Art Unit 1725

GSE